



[216] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-8003-2017 (O&M)
Date of Decision : 21.03.2025

Union of India

...Appellant

versus

Kamlesh Kumari and others

....Respondents

Coram : **HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Ms. Alisha Arora, Advocate
for the appellant.

Mr. Rajiv Vij, Advocate
for the respondents.

PANKAJ JAIN, J. (ORAL)

[1] This is an appeal directed against order dated 19.09.2017 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh.

[2] Union of India is in appeal aggrieved by the order vide which claim application filed by the claimants seeking compensation of Rs.4,00,000/- on account of death of one Vijay Kumar in an untoward incident involving railways was allowed and compensation to the extent of Rs.8,00,000/- was awarded.

[3] The facts of the case are that on 02.11.2014, the deceased reached railway station Nangal Dam, he purchased one railway ticket for going to Kharar and boarded the train. When the train reached Ropar Railway Station, he alighted from the train to fetch water and while he was trying to board the train again, he got entangled with some other train, which



was entering the platform. He sustained grievous injuries on the vital parts of the body and died on the spot.

[4] The respondent-railways contested the claim by filing a written statement in which it was averred that no such incident within the meaning of the provisions of Section 123(c) read with Section 124A of the Railway Act occurred. It was further alleged that the deceased had become entangled with some train due to his own criminally negligent act and conduct for which no liability can be fixed upon the railways.

[5] After hearing rival contentions, the Tribunal had framed the following issues:-

- 1) *Whether the claim application is maintainable or not?*
- 2) *Whether the deceased was a bonafide passenger of the train at the time of incident?*
- 3) *Whether the alleged incident is covered within the ambit of Section 123(c) read with Section 124-A of the Railway Act?*
- 4) *Whether the applicants are the sole dependants of the deceased?*
5. *Relief.*

[6] The claim application was allowed by the Ld. Tribunal and the claimants were entitled to a sum of Rs.8,00,000/- along with a simple interest of 6% per annum. It was held that there was no material on the file to hold that the deceased had any reason to entangle with the moving train intentionally and to bring upon himself such fatal injuries. It is not a case where he tried committing suicide. It was held that the death of the deceased comes within the purview of an untoward incident within the meaning of Section 124-A of the Railways Act.



[7] Counsel appearing for the Union of India contends that the Tribunal erred in granting compensation and holding that the deceased was a *bonafide* passenger and victim of an untoward incident. The Tribunal failed to ignore that there was overwhelming evidence on record in the form of GRP and DRM report which show that the deceased got struck with the engine of the other train while trying to cross Railway Line No.2 to reach his train. The Loco Pilot, Akhilesh Kumar, stated on oath that he saw a person got struck with the engine while the train was entering Ropar Line No.2 Railway Station.

[8] Counsel appearing for the respondents while upholding the view taken by the railways contends that there is evidence on record to show that the deceased was a *bonafide* passenger. During the physical search of the dead body of the deceased, one 2nd class ordinary railway ticket bearing No.53287584 dated 02.11.2014 was recovered. There is no evidence on record that the deceased had any intent or reason to take his own life. Thus, the Tribunal rightly allowed the claim of the claimants.

[9] I have heard counsel for the parties and have carefully gone through the records of the case.

[10] It has come on record that a ticket was recovered from the body of the deceased. The evidence remained unrebutted. Once the claimants have proved on record that there was a ticket recovered, the burden shifted upon the railways to prove otherwise. Nothing was brought on record by the railways. Thus, it is held that the deceased was a *bonafide* passenger.

[11] The issue qua untoward incident is no longer *res integra*. The same has been decided by the Supreme Court in the case of ‘**Union of India**



vs. Rina Devi' 2019 (3) SCC 572. Deceased died of a fall from a moving train. There is no allegation or evidence that injuries were self inflicted. In view of this issue qua untoward incident also needs to be answered in favour of the claimants.

[12] In light of above, finding no merit, the appeal preferred is hereby dismissed and the order passed by the Tribunal is upheld.

[13] All pending miscellaneous application(s), if any, stands disposed off.

(PANKAJ JAIN)
JUDGE

21.03.2025

'R. Sharma'

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>